



Legislative News

by Senior Judge Barry Wood

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Week ending April 5, 2013 [Week #13]

On Thursday, April 4, 2013, both the House and the Senate adjourned sine die, ending this year's legislative session which began on January 7, or day 88.

Two major pieces of legislation related to public education were shepherded through both chambers this last week of the session. The first was S 1199. This bill was drafted on Monday, introduced and heard in a joint Education Committee hearing on Tuesday morning, went through the Senate by a vote of 31-3-1 and then on Wednesday through the House by a margin of 51-12-7. This bill was dubbed the "education policy bill", dealing in part with two sections of the public school budget, namely teacher merit bonuses, and state grants for technology pilot projects in school districts.

The second major piece of legislation was S 1200, or what was dubbed "the going-home bill", and is the massive public schools appropriations bill. This bill appropriates \$1,598,156,500 to the Public Schools Educational Support Program for FY 2014. This bill was introduced, read for the first time, referred for printing, reported out of JFAC, and passed both chambers, all on April 4. This bill passed the Senate by a vote of 29-5-1, and the House by a margin of 57-11-2.

A third education bill also generated considerable discussion. S 1040a, which would let school districts cut teacher pay from one year to the next and makes other changes to teacher contracts, passed the Senate by a vote of 21-14, and passed the House 47-21. This was the last bill passed by the House before it adjourned sine die.

Another significant piece of legislation considered this week was H 345, or the so called "surplus eliminator". This legislation would transfer any FY 2013 year-end surplus in the state budget beyond a set amount of \$20 million dollars into the state's budget stabilization fund. This bill passed the House 67-0, and the Senate 34-0. However, as Representative Bell, Co-Chair of JFAC stated on the floor of the House during debate, "It is going to take a lot of faith on our part, because at this point, there is no surplus to eliminate."

Earlier in the week, S 1192a passed both chambers. This bill exempts the proposed new state parking garage from local (Boise City) planning and zoning requirements. The garage, which is to be built on a parking lot north of the Capital and the Len B. Jordan Building, had failed to garner approval from Boise City. The measure passed the Senate 24-11 and the House 42-26. It has been sent on to the Governor for his consideration.

S 1108 has been signed into law by the Governor. This bill makes it more difficult to qualify an initiative or referendum measure for the Idaho ballot by requiring at least 6% of registered voters in each of 18 of Idaho's 35 legislative districts.

HCR 21 is a resolution which sets up an interim legislative study committee to examine how the state can take over management of federal lands within its borders. This Resolution passed the Senate 26-6-3, and the House 64-4-2. HCR 22 is another federal public lands bill which demands that the federal government turn over title to all federal lands within the boundaries of the state to the State of Idaho. This measure passed both bodies by a vote of 55-13-2 in the House and by 21-13-1 in the Senate.

Lastly, on April 1 the House voted in favor of SCR 128 which sets up a legislative interim committee to study the Idaho Criminal Justice system. It passed the House 66-0-4. It passed the Senate last week 35-0. The Legislative interim committee should be appointed by the first week in June.

All in all, it has been a productive and interesting session. It is hoped that our readers have derived some value from this Legislative News column. Thanks to all who have read the same and for the feedback you have provided. "On the radar" is the 2014 session which is to begin January 13, 2014, or in just 283 days.

Week ending March 29, 2013 [Week #12]

A week which started with great optimism toward Legislative adjournment by week's end (Good Friday), took an abrupt down-turn on Wednesday when the Senate voted down [H 323](#) on an 18-17 vote. This bill is the \$1.3 billion dollar public schools budget, which is by far the largest single appropriations bill in the Idaho Legislature. It had previously cleared the House on a 52-16-2 vote, and JFAC had approved the measure by a margin of 15-5.

A second education appropriations bill, [H 65](#) remained unresolved on the Senate side until Thursday when the Senate Education Committee unanimously sent the bill to the Senate Floor with a "do pass" recommendation. This bill, dubbed "the fix it bill," is the proposed budget response relating to schools for the current FY 2013 budget year dealing with the \$30 million dollars involved in the failed Propositions 1, 2, and 3. It previously passed the House 69 – 0 clear back on February 19, and had been placed on the Senate Education Committee's hearing agenda 3 times since coming over from the House. As of this writing, there are no Committee hearings scheduled for either the Senate Education or JFAC, so the timing of next steps is unknown. Additionally, any compromise measure will then have to be heard by both chambers.

[H 315](#), the Idaho Association of Counties sponsored business personal property tax relief measure, passed the Senate 35 – 0 and now moves on to the Governor. The proposal which carries a price tag of about \$20 million dollars is to be replaced with sales tax revenues to local and county governments.

[H 306](#), the Idaho Supreme Court's appropriations bill for FY 2014 passed the Senate on a vote of 34 -1- 0 and now moves to the Governor's desk for consideration.

Judge Varin presented [H 256](#) to the Senate Judiciary and Rules Committee on Tuesday morning. This bill relates to amendments of Idaho's Child Protection Act. The matter was before the full Senate on Thursday, presented by Senator Nuxoll, and passed 33 – 0 – 2 with no debate.

For any of our readers who find themselves with a little extra time on their hands, or who are otherwise stimulus starved, you may want to peruse [S 1198](#) which is 154 pages in length. The statutes affected by this legislation are: the Model Entity Transactions Act, the Model Registered Agents Act, the Uniform Partnership Act, the Uniform Limited Partnership Act, the Uniform Limited Liability Company Act, and the Uniform Unincorporated Nonprofit Association Act.

[SCR 128](#), seeking to establish a Legislative Interim Committee to study the Idaho Criminal Justice system, previously passed the Senate 35 – 0. It was before the House Judiciary and Rules Committee and received a "do pass" recommendation. It now is now before the House.

[HCR 26](#), dealing with the appointment of a committee to undertake and complete a study of potential approaches to the public defense reform in Idaho passed the Senate 35 – 0. It previously passed the House 68 – 0 – 2.

[H 147](#), [148](#) and [149](#) were all before the Senate this week and each passed on a unanimous vote of 35 – 0. This trio of bills deals with various aspects of public defender law in Idaho; specifically H 147 deals with amending portions of Title 19, Chapter 8, H 148 deals with appointed counsel in Guardian ad Litem matters, and H 149 deals with appointed counsel in the juvenile justice arena.

[H 274](#), a Traffic Safety Education bill was before the Senate this week. The measure seeks to statutorily authorize a disputed practice of allowing cities to offer a traffic school as an alternative to an infraction. This measure passed the Senate on Thursday by a vote of 35 – 0.

[H 291](#) dealing with minors who are suffering from a serious emotional disturbance and who poses a danger to himself or others may be temporarily detained by a health care professional without a hearing was before the Senate. This bill passed the Senate 31 -3 – 1.

[H 292](#) seeks to add to existing assault and battery statutes to make it a felony to assault or batter certain medical personnel. This measure failed in the Senate. The floor vote was 17 – 17 – 1. Lieutenant Governor Little broke the tie with a no vote.

[S 1192aa](#) relating to the Capital Mall to provide that the state of Idaho may authorize certain exemptions from the statutory provisions of the Boise City planning and zoning processes was hurried through the Legislature this last week of the session. This measure deals primarily with a proposed parking garage on the Capital Mall which the City of Boise has not permitted. This bill is on the Second Reading Calendar of the Senate.

[S 1126](#) seeking to amend existing law to revise procedures for withholding and set-off of lottery prize winnings for satisfaction of outstanding state taxes owed and outstanding child support debt was before the House for its consideration and passed on a vote of 70 – 0. The Senate previously passed the bill 34 – 0 – 1.

[S 1119](#) dealing with Income Withholding for child support was before the House. This bill seeks to require that income withholding orders use a certain form and to require that such payments by employers be remitted to Idaho Department of Health and Welfare. This bill passed both chambers unanimously.

[S 1114aa](#), relating to Behavioral Health Services has been returned to the House Health and Welfare Committee by the Speaker without the measure being considered by the full House.

[SCR 112](#) stating findings of the Legislature and affirming the Legislature's opposition to the legalization of marijuana in Idaho was before the House. The measure passed the House by a margin of 63 – 7 - 0. It previously passed the Senate 29 – 5 – 1.

[S 1127](#) dealing with licensure of bingo and raffles was before the House and passed 65 - 5 – 0. It previously passed the Senate 34 – 0 - 1.

[H 308](#) and [309](#), dealing with a proposed repeal of the States Catastrophic Health laws (medical indigency paid by counties) and Medicaid expansion respectively, will not get a hearing this year. The primary reason cited is there is not enough time to properly vet these important issues.

Two other measures which have also apparently ran out of time to be heard are [H 230](#) seeking to designate and declare the Idaho Giant Salamander to be the State Amphibian of the State of Idaho. This measure is still before the House State Affairs Committee. The other is [H 250](#), the sales tax exemption bill for Girl Scout Cookies which previously won approval in the House on a vote of 59-11 but has yet to be set for a committee hearing on the Senate side. Legislatively speaking, sometimes “that’s just the way the cookie crumbles.”

[H 120 aa, aaS](#), has consumed a considerable amount of legislative time. This measure in its original version seeks to prohibit the ability to purchase lottery tickets with “electronic funds” (either a debit or credit card). The Senate

worked on an amendment which would allow such purchases with these cards if they were coupled with other purchases, such as fuel. The measure passed the Senate 22 – 11 – 2.

[S 1189](#) amending existing law to provide principles for statutory construction of the Idaho Code passed the Senate 34 – 0 – 1. In the House, the measure is on the Second Reading Calendar having cleared the House Judiciary Committee with a “do pass” recommendation. Senator Davis, the sponsor of this legislation, has written a law review article on the topic of legislative intent and statutory construction, and is scheduled to speak before the Judges at the September 2013 Judicial Council on these topics.

[H 30aa](#) relating to the Administration of Oaths and Affirmations was before the Senate. This measure amends the perjury statute and passed the Senate by a margin of 35 – 0. It also received a unanimous vote in the House.

[H 321](#) which seeks to amend portions of Title 40, Chapter 2 dealing with roads, county highway maps, abandonment and vacation of roads, and the like passed the House by a margin of 58 – 11 – 1. The bill came before the Senate on Thursday and passed by a margin of 33 – 0 – 2.

On Tuesday, two proposed measures failed to make it through a print hearing before the House Revenue and Taxation Committee. The first was RS22020C1 which was proposed by Representative Ringo, D-Moscow, and sought a 5% income tax surcharge on those earning more than \$77,100 a year. This was projected to raise about \$44 million dollars a year. The second was RS 22286C1 which was promoted as a “streamlined sales tax bill” to plan for future online sales tax collections. Representative Clow, R- Twin Falls, proposed this legislation to move Idaho into position to be able to tax internet sales should Congress pass laws enabling states to do so by joining the multi-state streamlined sales tax project. It was voted down on by a 10 – 5 margin.

[S 1134aa, aaH](#), a drone privacy bill which originally passed in the Senate by a vote of 24 – 11 – 0, was thought to have died in the House State Affairs Committee amid privacy concerns. The bill was then resurrected with amendments and is now making its way to a vote before the full House. Should it pass, it will have to be returned to the Senate for consideration of the bill as amended by the House.

[S 1151](#) passed the House on a vote of 64 -5- 1. This bill proposes to amend I.C. Sect. 19-2604 dealing with setting aside or reducing a conviction following a period of probation or retained jurisdiction. It previously passed the Senate 35 – 0.

[S 1047a](#) has been forwarded to the Governor for his consideration. This bill seeks to limit the state Tax Commission when it garnishes a delinquent taxpayer’s wages for back taxes, penalties and interest. By this proposal, the State would be limited to no more than 25% of the taxpayer’s wages. This bill passed the Senate 35 – 0, and made it through the House on a vote of 64 – 1 – 5.

There are two pending measures dealing with public lands transfer to the State of Idaho. One is [HCR 21](#) which seeks to set up a study committee on a state takeover of federal land within the State of Idaho, which passed the House on a vote of 64 – 4. The second is [HCR 22](#) which in effect demands that the Federal Government turn over title to public lands in Idaho to the state. It passed the House on a 55 – 13 partly line vote. Both measures were before the Senate State Affairs Committee on Thursday and now move on the full Senate.

[H 344](#), a newly printed bill, seeks to amend existing I.C. Sec. 19-2604 by creating an expungement process. Whether the bill will get a hearing this year or was just printed to begin a discussion on this proposed process is not yet known.

On the “radar screen” for next week is the anticipated adjournment, which some observers say could come as early as Wednesday, the general consensus is Friday April 5, and a few nay-sayers are looking at the following week. Time will tell. Following adjournment, the implementation processes will begin relating to the legislation which has been enacted into law. This includes budgeting, rules review, committee work, and the like.

Week ending March 22, 2013 [Week #11]

[S 1108](#), the measure designed to make it more difficult to get referendums and initiatives on the ballot by requiring 6% of the signatures to come from at least 18 legislative districts, was sent to the House floor with a “do pass” recommendation from the State Affairs Committee. It passed the House on a vote of 45-21.

[HCR 26](#), the House Concurrent Resolution seeking an interim committee to study Idaho’s Public Defender system received a “do pass” from the State Affairs Committee. The House adopted this Resolution on a vote of 68 – 0 – 2.

[H 306](#), the Supreme Court’s FY 2014 appropriations bill passed the House Tuesday on a vote of 69-0-1. This bill is now on the Third Reading Calendar of the Senate.

[S 1151](#) relating to amending I.C. Sec. 19-2604 was before the Senate Judiciary Committee on Monday, and passed the full Senate by a margin of 35 - 0. On Thursday, the bill received a “Do Pass” recommendation at the House Judiciary and Rules Committee with one no vote. It will next be before the full House.

[H 30aa](#) Relating to the Administration of Oaths and Affirmations was also before the Senate Judiciary Committee on Monday. The Bill was sent to the floor of the Senate with a “Do Pass” recommendation and is now on the Third Reading Calendar.

[SCR 112](#) was before the House State Affairs Committee on Tuesday. The resolution declares that it is the position of the Idaho Legislature that the State of Idaho should never legalize marijuana for any purpose. The measure cleared the committee on a voice vote. This measure is now on the Third Reading Calendar of the House.

[HCR 22](#), a resolution demanding that the Federal Government “imminently transfer title to all the public lands within Idaho’s borders directly to the state of Idaho”, but provides that the state would cede back all national parks, designated wilderness areas, national monuments, and the like, was before the House State Affairs Committee on Monday. This measure, together with [HCR 21](#), was approved along partly line votes. HCR 21 would set up a legislative interim committee to study the process for the State of Idaho to acquire title to and take control of public lands within the boundaries of the state. HCR 22 was debated on the House Floor Thursday afternoon and passed 55 – 13 – 2. HCR 21 also passed the House on a vote of 64 – 4 – 2.

[H 219](#) was a bill which sought to make it a misdemeanor for Idaho law enforcement officials to enforce any new federal firearms restrictions. This measure passed the House on a vote of 55 – 13 - 2. However, it will not get a hearing this year in the Senate State Affairs Committee. In addition to time constraints, concerns have arisen over relationships between Idaho law enforcement and federal agencies related to work jointly performed, including drug investigations.

[H 103](#), the measure amending I.C. Sec. 31-3201H by removing the sunset provision from the emergency surcharge legislation enacted back in 2010, and which previously passed both chambers, was signed into law by the Governor on Monday.

[S 1016](#) and [S1017](#), two of the Court’s defects bills have been signed into law by the Governor. S 1016 deals with Bail Agents and S 1017 deals with appeals from the Magistrates Division to the District Courts.

[S 1018 aa](#) was before the House Judiciary, Rules and Administration Committee on Tuesday. Michael Henderson presented the bill before the Committee. After fielding questions about contempt generally, penalties for contempt, and why the Senate amended the original bill, the Committee voted to send the bill to the House floor with a “Do Pass” recommendation with one no vote. This bill is now on the Third Reading Calendar.

[H 248](#), the State Health Insurance exchange bill sponsored by the Governor advanced through the Senate Commerce Committee on Tuesday on a vote of 8 – 1. This bill effectively replaces S 1042, an earlier version on

a State Health Insurance exchange bill. The bill was before the full Senate on Thursday and passed on a vote of 23 – 12.

[H 241](#), a measure dealing with scrap metal dealers and metal theft laws was before the full House on Tuesday. The bill seeks to create a deterrent by requiring buyers of scrap to record a digital video or other photographs of the seller, their vehicle, and the metal itself. The bill specifically excludes the photography requirement to those selling their beverage containers to scrap buyers. The bill passed the House on a vote of 58 – 11 – 1. It is now before the Senate Judiciary and Rules Committee.

Two House bills dealing with concealed weapons are now before the full Senate. [H 223](#) seeks to exempt the carrying of knives with up to 4 inch blades, tasers, stun guns, pepper spray and cooking knives from concealed weapons permits. The second is [H 293](#) which seeks to make Idaho's existing concealed weapons permit valid in more states by creating an "enhanced permit" which would require more training before the permit would be issued. Both are now on the Third Reading Calendar of the Senate.

[H 272](#), a business personal property tax measure promoted by the Idaho Association of Counties, has been replaced by [H 315](#). The new bill was printed Monday and was before the House Revenue and Tax Committee Tuesday morning. Following a procedural vote on Tuesday afternoon, H 315 advanced to the Third Reading Calendar of the House and debated. The House passed the measure on a vote of 67 – 2 – 1 and transmitted the newly minted version over to the Senate. This new bill keeps the exemption level at \$100,000 as provided in the original H 272 proposal, but it would include a provision regarding "operating equipment", and would create a "de minimus" exemption at \$3,000 dollars. The total cost to the State is estimated to be about \$20 million dollars per year. H 315 was before the Senate Local Government and Taxation Committee on Thursday and received a unanimous "Do Pass" recommendation. It next goes to the full Senate for a final vote.

[SCR 128](#), dealing with a proposed Interim Legislative Committee to study the Idaho Criminal Justice System is on the 10th Order Calendar of the Senate.

[H 230](#), which was introduced and printed about three weeks ago, is patiently awaiting hearing in the House State Affairs Committee. This all important measure relates to state symbols and seeks to provide that the Idaho Giant Salamander be designated and declared to be the State Amphibian of the State of Idaho.

[H 250](#), the sales tax exemption bill for Girl Scout Cookies passed the House on a vote of 59-11. The total impact to the state is about 22 cents per box, and in total amounts to about \$140,000 per year impact to the State's revenues. It is now on the Senate side before the Local Government Committee.

On the "radar screen" next week is the targeted date of adjournment by week's end. At this stage of a session, legislative days are long and rules of legislative procedure are being exercised to expedite hearings. Calendars are being re-shuffled on a daily basis, but it appears the members are resolved to be out of town by Good Friday, March 29, 2013.

Week ending March 15, 2013 [Week #10]

[S 1108](#) passed the full Senate on a vote of 25 – 10. This legislation seeks to make it more difficult to qualify initiatives and referenda for the ballot in Idaho by requiring signatures from at least 6 % of the voters in 18 of the State's 35 Legislative Districts whereas current law requires at least 6% of the voters statewide. Bill sponsors assert that this requirement will lead to the protection of voters in rural areas. The bill is now on the House side, assigned to the State Affairs Committee.

[S 1080](#) or what has been dubbed the "Bujak Bill" in reference to former Canyon County Prosecutor John Bujak has passed the Senate 34-0-1. This proposed legislation would put the State Attorney General in charge of investigating civil or criminal law violations by county elected officials, including open meeting lase questions by Boards of County Commissions. Part of the rationale for the measure is the bill would have the effect of removing an attorney-client conflict if a county prosecutor has to prosecute a county official represented by the prosecutor in the ordinary course of county business. The House State Affairs Committee has been assigned to hear this bill.

[H 250](#) cleared the House Revenue and Taxation Committee on a unanimous vote. This bill seeks to remove Idaho's distinction as one of just two states that imposes sales tax on sales of Girl Scout cookies. The measure is scheduled to be heard by the full House on March 19, 2013.

Senior Judge John Varin testified for over an hour on Monday fielding questions from the House Judiciary, Rules and Administration Committee on [H 256](#). The bill ultimately received a "do pass" recommendation with just one "no" vote. The bill is scheduled to be before the full House on Friday, March 15, 2013.

[S 1018aa,aa](#) which is one of the Court's defects in the law bills as now amended, has now successfully passed the Senate. The legislation deals with contempt proceedings with jurors.

House Concurrent Resolution 26 ([HCR 26](#)) has been printed relating to findings of the Legislature and Authorizing the Legislative Council to appoint a committee to undertake and complete a study of the potential approaches to the Public Defender system in Idaho and to make recommendations for reform of that system. [H19](#) has passed the House on a vote of 55-13 and now moves over to the Senate side. If this measure becomes law, it would allow Idaho law enforcement officers to be charged with misdemeanors if they act to enforce any new federal law regarding the confiscation of firearms or ammunition. It also seeks to be retroactive to January 1, 2013.

There are two competing bills relating to the repeal of portions of the personal property tax on business equipment which were heard in the House Revenue and Taxation Committee. First [was H 272](#) which is being promoted by the Idaho Association of Counties which seeks to "pull the trigger" on the never-implemented 2008 legislation to exempt the first \$100,000 in business equipment from the personal property tax in each county. This bill would have the result of removing the tax from about 90 percent of Idaho businesses and has an estimated fiscal impact of around \$20 million dollars. The second is [H 276](#) supported by Idaho Association of Commerce and Industry (IACI) which entirely phases out the tax over a seven year period. The ultimate fiscal impact of this bill is estimated to be about \$140 million.

[H 248](#), a Health Care Exchange bill was debated on the floor of the House for about 6 ½ hours, or what amounted to most of the day Wednesday. Early in the debate, a motion to send the bill to the General Orders Calendar for amendment failed on a vote of 38 – 32. Ultimately the measure passed the House on a vote of 41-29. Because the debate consumed the day, afternoon Committee meetings were canceled, including House Judiciary, Rules and Administration.

On Thursday, the House Health and Welfare Committee voted unanimously to print two bills which are of interest to the Judiciary. The first proposes to eliminate the county medical indigency and state catastrophic health care program (CAT fund). In lieu of the CAT fund, the second bill is a proposed measure seeking to expand Idaho's Medicaid program to include people up to 138% of the federal poverty line, or what has been dubbed as the "Medicaid Expansion." If this second bill were to pass, it could have substantial financial impacts on a number of people served by Idaho's criminal justice system, including providing an advantage to those in need of mental health services. In effect, the CAT Fund is being swapped for a Medicaid expansion. As of this writing, neither of these has been assigned a House Bill number.

[H 306](#), the Supreme Court's FY 2014 appropriation bill has now been printed and should be up for consideration next week.

Friday Afternoon, March 15, 2013, Committee hearings will include the following: Before the Senate Judiciary Committee [are H 147](#), [H 148](#), and [H 149](#), all relating in one way or another to Public Defenders; [S 1137](#) Relating to Garnishments; and a print hearing on a proposal for an Interim Committee on Criminal Justice. Before the House Judiciary, Rules and Administration Committee is [H 274](#) dealing with Traffic Safety Education Programs which are operated by cities.

[H 103](#), the Court's legislation to remove the sunset clause in I.C. Sec. 31-3201H, which previously passed both legislative chambers, is awaiting action by the Governor.

On the "radar screen" is the informal target date of March 29, 2013, which has been predicted by many to be the date by which the 3013 Legislature wraps up the current session. If this is to be accomplished, some significant work will have to be completed in just two short weeks.

Week ending March 8 [Week #9]

[H 29](#), the Court's bill adding three new District Judges, has been forwarded to the Governor for his consideration. The bill passed both the House and Senate unanimously.

Monday, March 4, marked the Idaho Territorial Sesquicentennial Celebration with festivities on the front steps of the Idaho Capital. The ceremony, which was attended by Justices of the Idaho Supreme Court and Judges of the Court of Appeals, paid homage to President Abraham Lincoln who signed the resolution creating the Idaho Territory 150 years ago.

[H 103](#), The Court's legislation seeking to remove the June 30, 2013 sunset provision in I.C. Sec. 31-3201H was before the Senate Judiciary and Rules Committee. A motion was made to amend the bill to renew the sunset provision for a five year period. On a roll call vote, the motion to amend failed 4 – 5. The bill then received a unanimous "do pass" recommendation and was sent to the floor of the Senate. Late yesterday, the Senate passed the bill with a vote of 32-2-1 (No voters were Senators Nonini and Pearce; Senator Vick was absent). Senators Hagedorn and Bock were the floor sponsors.

[S 1137](#) is now introduced and is a lengthy bill relating to the law of Garnishments. A prior version of this proposed legislation had previously been circulated to Judges for comment. Some of those suggestions have been incorporated into the bill as now printed. The newly revised bill has again been circulated for comment and your efforts in this regard are greatly appreciated.

The Senate State Affairs Committee heard more testimony on [S 1108](#) which is the proposed legislation from the Idaho Farm Bureau to make it more difficult to qualify initiatives or referendum measures for the Idaho ballot by requiring the requisite 6% percent of citizen signatures to come from at least 18 of the State's 35 Legislative Districts, rather than 6% from anywhere in the state. The stated purpose is to increase the voice of rural residents. This measure cleared Committee along a party line vote and is now on the Second Reading Calendar of the Senate.

The most significant event of the week was the Judiciary's budget which was before the Joint Finance-Appropriations Committee (JFAC) on Tuesday morning. After a failed motion to increase the budget by \$25,000 for Guardian ad Litem training, the Committee unanimously approved a budget which includes a 3.3% increase in general funds. Of significance, JFAC's approved budget includes funding for 3 new District Judges, 3 new Court Reporters, and 2 new Magistrate Judges. It also includes increased funding for the Idaho Judicial Council to cover the voluntary performance evaluation program for Judges. The two items which had been requested but which were not funded were monies for a proposed new position of Court Facilities Planner and the additional monies for GAL Volunteer training mentioned above. For details of the actual motion presented by Representative Bolz and approved by JFAC, [click here](#).

In a separate budget proceeding, the Court also received an appropriation of \$450,000 in Millennium Fund monies.

[S 1151](#) seeking to amend I.C. Sec. 19-2604 went through a print hearing in the Senate Judiciary and Rules Committee on Wednesday. This bill should be up for a Committee hearing early next week.

On Thursday, the Idaho Association of Counties was before the House Revenue and Taxation Committee on RS22201C1, a measure aimed at eliminating Idaho's business property tax (dubbed the personal property tax) on

about 90 percent of the businesses with an effective date this year. This bill has now been assigned number [H 272](#), and would exempt the first \$100,000 of business personal property from taxation. The State would cover the estimated \$20 million in replacement revenue to local governments from this change in tax collection. A second bill is expected to be introduced Friday which would eventually eliminate the entire business personal property tax scheme which generates somewhere around \$140 million per year. These bills are of significance because they could affect the amount of revenues available to local school districts, cities, and county governments. And because local governments are involved in many aspects of trial court financing, these proposals are being watched closely.

[H 248](#), the third proposed piece of legislation introduced this year on the State Health Insurance Exchange issue was before the House Health and Welfare Committee for its consideration. This bill has generated significant interest which can be measured by its' being set for public hearing starting at 7 a.m. Thursday in the Lincoln Auditorium, the largest hearing room in the Capital Building, with testimony limited to 3 minutes per person. The "purpose and intent" is provided in the proposed new code section which would be I.C. Sec. 41-6102, if adopted. The Committee ultimately voted 10-1 in favor of the bill which now moves on to the floor of the House.

The House has passed [H 223](#) on a unanimous vote. This bill relates to concealed weapons and would allow persons to carry concealed knives with blades four inches or shorter without a concealed weapons permit. Longer knives used primarily to prepare food, legal tasers and pepper spray are also exempted.

The Division of Financial Management released the February 2013 General Fund Revenue Report, which came in at \$27.2 million dollars or nearly twice as high as had been projected. [Click here](#) to read the report.

On the lighter side of things, two bills are now pending which may evoke a smile from our readers with at least a little sense of humor. The first is [H 250](#) which is now before the House Revenue and Taxation Committee. This measure seeks to exempt the sales of Girl Scout's Cookies from Idaho's sales tax. The second is [H 241](#) which seeks to require scrap metal dealers to make at least a 30 second identification video of sellers of scrap metal at the point of sale; excluded from this identification requirement however, are the sales of aluminum beverage containers.

On the "radar screen" for next week should be the Court's appropriation bill from JFAC, which has yet to be assigned a bill number following the budget hearing of March 5 referenced above. Senate Bill [1018aa.aa](#), which is the last of the Court's defects bills, and which deals with Juror Contempt, will be before the full Senate. Lastly, [H 29](#) which provides for three new District Judges should receive consideration from the Governor's office.

Week ending March 1 [Week #8]

The week started with the Senate passing one anti-marijuana resolution and defeating a second. More specifically, the Senate voted 29-5 in favor of [SCR 112](#), the resolution which stated that the policy of the Idaho Legislature should be to never legalize marijuana for any purpose. The second measure, [SJM 101](#) was defeated on a vote of 13-21. This resolution called on the Federal Government to step up enforcement of federal drug laws in states that have moved to decriminalize marijuana. The perceived discrepancy was explained by stating that the first vote showed opposition to the legalization of marijuana while the second vote "centered on state's rights, not marijuana."

[H 29](#), the Court's bill amending Idaho law relating to the composition of some individual judicial districts to add three new District Judges was approved by the Senate on a vote of 35-0. The measure previously cleared the House on a vote of 70-0. The bill, which is of significant importance to the Idaho Judiciary, now moves to the Governor for consideration. Funding for these three positions, including court reporters, was included in the Court's budget requests; as was the budget request for two additional Magistrate Judge positions. Combined votes of 105 – 0 on Court legislation is a most welcome experience in light of these very difficult financial times facing the entire State.

Numerous members of the Idaho Legislature were in attendance at the Idaho Supreme Court on February 26 to celebrate the presentation of the *2012 Warren E. Burger Award for Excellence in Court Administration* to Patti Tobias. The Burger Award is presented annually by the National Center for State Courts to an individual who has contributed significantly to the field of court administration, and who demonstrates professional expertise, leadership, integrity, creativity, innovativeness, and sound judgment. The Award honors court administrative officials who have taken decisive steps to improve the operation of courts at the state or local level that may have application to courts nationwide. Patti is approaching her twenty year anniversary as the Administrative Director of the Courts, and this award is richly deserved. Congratulations, Patti!!!!

[Note: photos and a link to the video of the event will be posted on the Court's Website in the near future.]

[H 103](#), the Court's legislation to remove the June 30, 2013 sunset provision contained in Idaho Code Section [31-3201H](#) was before the House on Wednesday, February 27. The bill was carried on the House floor by Acting Representative and former Canyon County Sheriff Chris Smith, who was filling in for Representative Christy Perry. After limited debate, the measure passed on a vote of 40-28-2.

[S 1114](#) seeking to localize and streamline behavioral health services offered through Idaho Department of Health and Welfare has cleared the Senate Health and Welfare Committee. The bill now moves to the full Senate.

[S 1023](#), a prior bill on the same subject, has been pulled.

[H 147](#), [148](#) and [149](#), collectively referred to as the "Public Defender Bills" are on the Third Reading calendar of the House and should be heard March 1. H 147 deals primarily with a re-write of [Title 19, Chapter 8](#) of the Idaho Code dealing with public defenders. H 148 is primarily concerned with amending existing law relating to the Child Protective Act as it deals with the appointment of a guardian ad litem and the appointment of counsel for a guardian ad litem and the child. H 149 seeks to amend existing law relating to the Juvenile Corrections Act in several respects, including provisions relating to representation by counsel of certain juveniles.

[H 189](#) dealing with juvenile mental health temporary custody issues has now been approved by the House Health and Welfare Committee. The measure seeks to grant physicians and nurse practitioners the authority to order certain juveniles into temporary custody at a hospital or other health care facility.

There are now multiple legislative proposals dealing with firearms and/or other concealed weapons. [H 192](#) creating a new enhanced concealed weapons permit passed the House unanimously on Thursday. [H 229](#) has been printed which seeks to limit or prohibit federal regulation of certain firearms. [H 223](#) seeks to amend Idaho Code Section [18-3302](#)(7) to expand the list of items currently exempted from the concealment prohibition beyond shotguns and rifles to exclude "any knife, cleaver or other instrument primarily used in the processing, preparation or eating of food, any knife with a blade four (4) inches or less or any unlawfully possessed taser, stun gun or pepper spray".

[SJR102](#) seeks to amend [Article XIV](#) of the *Idaho Constitution*, to provide in part that "All able-bodied persons, residents of this state, eighteen years or older shall constitute the militia, and". Should these measures ultimately become law, some of our judges may ultimately be called upon to determine who among our citizenry is "able-bodied" and whether the primary purpose of a particular concealed knife or cleaver is "for processing, preparing or eating food."

Two proposals related to heavy truck loads captured most of the afternoon on Thursday in the Senate Transportation Committee. [S 1117](#) deals with possible new routes for heavy trucks in North Idaho. [S 1064](#) would remove the expiration date from a pilot program that has allowed the heavier trucks – some weighing up to 129,000 pounds, instead of the prior limitation of 105,000 pounds – to be used on 35 designated southern Idaho routes. This item is noteworthy in part because the hearing room was packed with paid lobbyists and amounted to a "Who's Who" in the lobby world of the Idaho Legislature.

Several other matters of potential interest for the pleasure of our reading audience are the following:

[HCR 3](#), the cursive writing resolution previously passed in the House, has now also passed the Senate; testimony in favor of [H 220](#) relating to "historical horse races" established that Idaho has the highest per-capita

horse population to people of any place in the world; and, [H 230](#) was introduced seeking to declare the Giant Salamander be designated as the Official Idaho State Amphibian.

On the “radar screen” for next week is the [H 103](#) hearing before Senate Judiciary on Monday and JFAC Budget setting hearing for the Courts on March 5. Also there is likely to be printed a bill seeking to amend Idaho Code Section [19-2604](#) dealing with amending a judgment following probation.

Week ending February 22 [Week #7]

Last Friday, JFAC unanimously (20-0) adopted its FY2014 General Fund budget number at \$2.783 billion dollars, or what amounts to a 3% increase from last year, which figure also matches the Governor’s recommendation. This translates that JFAC cannot set total budgets from general fund monies meeting the total requests received which so far exceed \$2.8 billion dollars. In addition, there are numerous other bills before various policy committees which contain a proposed fiscal impact that were not included in submitted budgets. This plan amounts to spending about \$80 million more than FY 2013, of which about \$35 million is proposed to be set aside in reserve or “rainy day” accounts. The proposals to date also provide zero funding for pay raises for state employees. JFAC has now started the actual budget setting process, with a target completion date of March 8.

On President’s Day, Patti Tobias and Senior Judge Wood appeared before the Senate Judiciary and Rules Committee on two matters of interest to the judiciary. The first was on [H 29](#) seeking to obtain 3 additional District Judges, one each in the third, fourth and seventh judicial districts. The Committee voted unanimously to send the measure to the floor of the Senate with a “Do Pass” recommendation. The second matter was a presentation on the recruitment challenges facing the Judiciary relating to District Judges. This presentation was well received by Committee members. A similar presentation was made to the House Judiciary Committee on January 17, 2013.

[S 1108](#) has been introduced which seeks to make it more difficult to place initiatives or referenda on the Idaho ballot. The controversial measure, which as written requires signatures to come from 6 percent of the residents of at least 18 of Idaho’s 35 legislative districts, has generated significant discussion. Some view the legislation as an attempt to lessen the ability of urban citizens to petition the legislature.

[H 189](#) has been introduced which would allow medical practitioners, without a hearing, to hospitalize minors for up to 24 hours who are suffering from a serious emotional disturbance and who pose a danger to himself or others. According to testimony provided at the print hearing, under existing statute, this proposal would put minors in line with a similar state law covering adults.

On Tuesday, [S 1016](#) and [S 1017](#), two of the Court’s defects in the law bills were before the House Judiciary and Rules Committee. Michael Henderson presented testimony and each received a “Do Pass” recommendation. These two bills are now on the Third Reading Calendar of the House, and could be heard as early as Friday.

On Wednesday, February 20, [SCR 112](#) and [SJM101](#) were before the Senate State Affairs Committee for hearing. Due to the significant interest expressed relating to these two measures, the Committee moved the public hearing to the Auditorium located in the Capitol and limited testimony to three minutes for those who signed up to testify. SCR 112 is a Senate Concurrent Resolution to oppose the legalization of marijuana for any purpose in the State of Idaho and SJM 101 is a Senate Joint Memorial seeking to notify the governing bodies of the federal government to take appropriate action to ensure that the federal drug-free policy is upheld in all states.

On Thursday, [H 103](#) was before the House Judiciary and Rules Committee. This piece of legislation is of great importance to the Courts as it seeks to remove the June 30, 2013 sunset clause in I.C. Sec. 31-3201H. The original legislation was H 687 back in 2010 which sought to partially restore about \$5.3 million dollars in decreased general funds to the Courts because of the significant financial downturn. After considerable debate about whether a new sunset provision should be inserted rather than a complete removal as the bill is written, including a failed attempt to move the measure to the amending order, the bill was sent to the House Floor with a “Do Pass” recommendation on a vote of 13 to 3, with one member absent and excused.

[H 153](#), a bill which proposes to amend existing law relating to jury selection and service by revising provisions regarding mileage reimbursement and per diem of jurors, is on the Third Reading calendar of the House.

The Senate heard about six hours of debate on [S 1042](#) on Thursday before the measure passed on a vote of 23-12. This legislation is the Governor's proposed state health insurance exchange. The measure now moves over to the House and will be up for Committee hearing.

[H 29](#), the Legislation referenced earlier in this newsletter seeking to add three additional District Judges, has advanced to the Third Reading calendar of the Senate. However, on Thursday, all Senate Bills on the Third Reading calendar were placed ahead of all House Bills for hearing, so the bill will likely not be heard and be voted upon by the full Senate until sometime next week.

On the "radar screen" are [H 103](#) which has moved to the Second Reading calendar in the House; [H 29](#) on the Third Reading calendar in the Senate; and the Court's budget will be heard by JFAC on March 5.

Week ending February 15 [Week #6]

On Monday, [H 29](#) (3 new District Judges) was before the House on the Third Reading Calendar. Representatives Trujillo (District 33, Bonneville County) and Representative Bolz (District 10, Canyon County) were the floor sponsors. Following their respective presentations, there was no debate and the measure passed the House by a vote of 70 – 0. It has now moved over to the Senate and is before the Senate Judiciary and Rules Committee awaiting a hearing.

A political maneuver involving 16 House GOP freshmen who banded together on a health insurance exchange bill has generated a great deal of theatre in legislative circles. The group has been dubbed "the Gang of 16" and introduced [H 179](#) to bolster [S 1049](#) pending in the Senate. There are 31 members of the House Freshman class, of which 2 served as appointed legislators in the last Legislature; 27 of the freshman are Republicans which comprises almost half of the 57 member GOP caucus. More importantly, however, a majority of 36 is needed to pass legislation in the House, so a block of 16 is deemed to be significant in this regard.

There are new bills relating to public defense which are of interest. They are [H 147](#), [H 148](#), and [H 149](#) which follow years of work by the Public Defender Subcommittee.

One bill which has also garnered some attention is [H 99](#) which seeks to replace Idaho's Controlled Substance Schedules found in Title 37 with the federal schedules.

On Thursday, the chairs of the germane committees of both houses made their presentations and recommendations to JFAC as it starts its' final budget setting process for all three branches of government, including the separate agency budgets of the executive branch. Senator Lodge and Representative Wills, as chairs of the respective Judiciary and Rules Committees, made a joint presentation.

The all-important, all-encompassing Statewide Budget Decisions hearing is before JFAC Friday morning at which time the Committee will adopt its overall state budget number, which will then form the parameters for setting all individual budgets, including the Court's budget.

Regarding the Court's 3 defects bills presented this session, [S 1016](#) relating to Bail Agents License and [S 1017](#) repealing obsolete appeal provisions will be on for hearing next week before the House Judiciary, Rules and Administration Committee, while [S 1018](#) relating to Juror contempt remains on the 14th Order Amendment Calendar in the Senate.

A SUDS (substance use disorder services) presentation was made before a group of legislators on Friday. This was a joint presentation involving IDOC, IDHW, and the Courts.

The Legislative Review Teams are once again providing an invaluable service to the Administrative Office's efforts to provide feedback to Legislators regarding bills of interest. These efforts by our judges are very much appreciated.

On the "radar screen" are presentations before the Senate Judiciary and Rules Committee by Patti Tobias and Senior Judge Barry Wood on judicial recruitment, and the Committee hearing on [H 103](#) before the House Judiciary, Rules and Administration Committee which concerns the removal of the sunset language in I. C. Sec. 31-3201H.

Week ending February 8 [Week #5]

Patti Tobias delivered the Supreme Court's Budget to JFAC on Monday February 4. This marked the 20th time Patti has made such a presentation to this most important committee. Her presentation was impressive and well received.

The first of four regularly scheduled Administrative Conferences of the year was held February 4 and 5. The timing of this conference provides some judges the opportunity to meet with legislators from their respective districts. Judges and the Trial Court Administrator from the Seventh Judicial District held a breakfast meeting with some legislators, and this get together was mentioned by Representative Trujillo in her comments on HB29 in the House Judiciary and Rules Committee hearing.

[H0099](#) which seeks to repeal and amend the existing Idaho statutes dealing with the Controlled Substances schedules and replace Idaho's listing by simply adopting the federal schedules has generated some interest. This bill has been referred to the House Health and Welfare Committee.

[H0103](#), the Court's bill seeking to remove the sunset clause in the Emergency Surcharge statute (I.C. Sec. 31-3201H) went to print hearing on Wednesday, February 6. It should be before the Judiciary, Rules, and Administration Committee next week for hearing.

[S1016](#) dealing with eliminating the filing requirement of a Bail Agent's license with the Clerk of the Court has passed the Senate on a vote of 35-0. It has now been moved over the House and is before the Judiciary, Rules and Administration Committee.

[S1017](#) seeking to repeal statutory provisions relating to appeals from the Magistrate Division passed the Senate 35-0 and is now before the House Judiciary, Rules and Administration Committee.

[S1018](#), the third of this year's defects bills, has been referred to the 14th Order for amendment. This bill deals with jurors who fail to appear for jury service (juror contempt).

The much anticipated Idaho General Fund Revenue Report was released on Thursday, February 7, 2012. The report reveals that Idaho's general fund state tax revenues for the month of January came in \$0.9 million ahead of forecast, or about 0.3 percent ahead. For the fiscal year to date, total collections are about 0.2 percent below the most recently revised forecast. The report is presented each month from the Governor's Division of Financial Management. This is the final General Fund Report JFAC has to consider before it sets its projected revenue figure from which it then starts setting the state's budget. Interested readers can review these monthly reports at <http://dfm.idaho.gov/Publications>.

[H0029](#), the Court's bill seeking three new district judge positions (one each in the third, fourth, and seventh judicial districts) has now advanced to the Third Reading calendar of the House. Whether it will get considered on Friday, February 8 or early next week has not been determined as of this writing.

There continues to be a variety of proposals which seek to add fees in one form or another in order to fund specific programs. Some of these proposals are still in the formation state while others have found their way to print hearings. One example is [HB0105](#) which seeks to add a fee to classified sexual predators for an electronic registration and notification system. Chief Justice Burdick spoke of the increasing fee issue in the context of criminal cases in his [*State of the Judiciary*](#).

Currently, a significant theme in the halls of the State Capitol is the debate over the proposed state health insurance exchange. This legislation was before the Senate Commerce Committee on Wednesday and Thursday. This legislation is [SB1042](#).

[SB1056](#) has been printed and referred to the Senate Education Committee. This legislation seeks to prevent students convicted of certain crimes from being allowed to attend Idaho's public schools.

On the "radar screen" for next week is the deadline of February 11, 2013, as the last day to file a bill for a print hearing (referred to as an RS) without starting the legislation in a privileged committee of the Legislature. Privileged committees are those designated by legislative rule and are typically the committees which meet daily.

Week ending February 1 [Week #4]

[HB0001](#), the first bill of the session, passed the House last Thursday, January 24th and is now in the Senate. A similar bill is passed each year and its purpose is to align the State's Income Tax Code with the Federal Tax Code. Preparing tax returns can already be a challenge, but without this type of legislation, preparers of tax returns would be presented with an even more complex and expensive task.

[HB65](#), a bill designed to allocate the funds left in limbo by the defeat of Props 1, 2 and 3 (so called Luna Laws and/or Students Come First) has been introduced. Many different interests have been keenly interested in the ultimate outcome of the money which had been allocated for the purposes of implementing these education reforms. When each of the propositions was defeated in the last general election in November 2012, it was estimated that there was more than \$30 million dollars in play. This proposed legislation proposes to restore such things as Pay for Performance, Technology and Professional Development, and Math/Science Teacher funds. A simplified explanation is provided in the Statement of Purpose and Fiscal Note filed with the bill.

The Joint Finance-Appropriations Committee (JFAC) continues the process of setting the FY2014 budget by holding a series of meetings typically grouped by subject matter. For instance, last week was focused primarily on education. This week's focus starts with the State's environmental and wildlife issues. Judge Eric Wildman made his SRBA District Court presentation on January 29. Next week's focus will be on the Courts, State Appellate Public Defender, Department of Corrections, Commission for Pardons and Parole, Attorney General, Military Division, Idaho State Police, etc.

[SB1042](#), which is Governor Otter's proposed state health care exchange, was introduced January 29 as the alternative to an otherwise required federal exchange under the Affordable Health Care Act. As proposed, the exchange would be a quasi-governmental entity governed by a 16 member board with two ex-officio members who would be the directors of Idaho Department of Health and Welfare and Idaho Department of Insurance.

The State of Idaho FY 2014 State Employee Compensation and Benefits Report to the Governor was presented on January 29, 2013. State law requires a study and subsequent report to both the Governor and Legislature be presented each year. The purpose is to compare state employee compensation to the market and report on employee turnover. The result of the study was Idaho's classified employee salaries are 18.9% below market compared to jobs in both the public and private sector. When compared to eight surrounding states, Idaho's state employees pay is 10.7 percent below those in Arizona, Colorado, Montana, New Mexico, Nevada, Utah, Washington, and Wyoming.

The following day, January 30, a report was released by the Legislature's Office of Performance Evaluations and was presented to Joint Legislative Oversight Committee. This report was the product of a study which was requested last year by members of JFAC following concerns the Committee had heard from various state agencies at their respective budget hearings that Agencies were losing highly skilled workers, and were also having difficulty recruiting qualified replacement workers because the pay rates weren't competitive. The report seemed to verify the assertions made before JFAC last year that significant salary and recruitment challenges exist because of inadequate compensation.

[SB1036](#) has been introduced and is backed by the Idaho Sheriffs Association. This legislation would allow law enforcement to execute against inmate commissary accounts to pay off certain debts.

The Court's three defects bills of 2013 were before the Senate Judiciary Committee for hearing on the 30th. Michael Henderson, staff attorney for the Court, presented the bills before the committee. They are [SB1016](#) relating to Producer licensing (bail agents), [SB 1017](#) relating to proceedings in the Magistrate's division, and [SB 1018](#) relating to contempt issues in jury selection and service. Each received a "do pass recommendation" and are now on the second reading calendar of the Senate.

[SB1048](#) has been introduced relating to when the Idaho Department of Transportation may suspend a driver's license for nonpayment of a traffic infraction penalty. This proposed legislation provides that the ITD has no authority to suspend a driver's license for failure to pay unless it has received "clear and convincing evidence" of certain enumerated things, including "the record from the court is clear that the driver had notice and hearing or opportunity for hearing before the court regarding the in-state traffic infraction."

Our Legislative Review Teams are being responsive to numerous legislative proposals, some of which have been formally introduced and others which are being circulated for feedback as part of the process to measure support before a print hearing is sought. These efforts are greatly appreciated by Legislators, lobbyists, and AOC staff.

[HR 2](#), which seeks to amend House ethics rule 76, was approved by the House Judiciary, Rules and Administration and moves on the full House for consideration. A standing ethics committee would be formed under the provisions being proposed.

On the "radar screen" is Patti Tobias's Court Budget presentation to JFAC on February 4. The February Administrative Conference, coupled with the annual Clerk's Conference which is scheduled for the morning of February 4, will consume the first part of the week. February 7 should bring the anxiously awaited January 2013 Idaho General Fund Revenue Report issued by the Idaho Division of Financial Management. Each month the DFM issues a report which lists both the prior month's general fund revenue actually received, as well as how that revenue figure meets what had been predicted. In terms of timing, this report is quite important to legislative budget writers.

Week ending January 25 [Week #3]

While Monday January 21 was a holiday for many, the Idaho Legislature was in session and proposed legislation which affects the Judiciary was part of a committee agenda. Specifically, Patti Tobias presented testimony before the House Judiciary, Rules, & Administration Committee on a print hearing for bill seeking additional judgeships. Michael Henderson presented testimony before the same Committee on a sought after revision of the perjury statutes. The local newspapers reported that "Patti Tobias *won* introduction of her measure . . ."

The bill seeking the three new district judges is now printed as [House Bill 29](#) and the perjury bill has been assigned [House Bill 30](#).

The Legislature devotes much of its time in the first few weeks of every session to a review of administrative rules which have been drafted by the various executive branch agencies since the last session in response to laws passed in that prior legislative session. Idaho law provides that the legislature can veto agency rules in whole or in part. Many of those rules do not attract very much attention, however some get rejected, and a few attract a great deal of interest.

One particular set of rules which has consumed a good deal of time relates to those crafted by the Department of Administration with respect to public use of the Capital Mall grounds. The ultimate outcome of these proposed rules remain unresolved after considerable debate.

On the IDAPA Rules review before the House Judiciary Committee on matters of interest to the Courts, there was the minimum standards for DUI Evaluators (16-0608-1201); and before the Senate Judiciary & Rules Committee,

there were rules relating to POST – Juvenile Probation Officers (11-1103-1201) and Misdemeanor Probation Officers (11-1106-1201).

The House is in the process of taking up the issue of establishing a permanent ethics panel to consider complaints against legislators. Under the proposal, complaints could only be filed by legislators and would only involve matters occurring after taking legislative office. There will be much more debate on this as it progresses into the session.

[Senate Concurrent Resolution No. 101](#) has been introduced recognizing Power County in southeastern Idaho on its 100th Anniversary. Mentioned in the resolution is American Falls Dam, completed in 1927 and which created the 56,200 acre reservoir (surface area) which provides water for hydroelectric generation, irrigation, and recreation. Power County was given its name because of its hydroelectric development.

[House Concurrent Resolution No. 2](#) has been introduced congratulating Madison County for its Centennial anniversary. The County was named for the fourth President of the United States, James Madison. The County seat is in Rexburg.

Patti Tobias and Senior Judge Barry Wood appeared before a joint House and Senate Judiciary and Rules Committee meeting and participated in a program entitled “Overview of Criminal Justice System.” It was the first time the two committees had met in a joint session. Others participating were Ada County Sheriff Gary Rainey, Ada County Deputy Prosecutor Jan Bennetts, Ada County Deputy Public Defender Tony Geddes, IDOC Director Brent Reinke, Idaho Parole Commission Director Olivia Craven, and facilitator Holly Koole of the Ada County Prosecutor’s office.

Chief Justice Burdick delivered his [State of the Judiciary speech](#) in separate appearances before the House and Senate on January 24. In attendance for the delivery to the House were the District Judges who were in town for their annual seminar. Patti Tobias was recognized and complimented for being presented the ***Warren E. Burger Award for Excellence in Court Administration*** by the National Center for State Courts, which to courts and court administration across the entire United States, is the equivalent of the Heisman Trophy in college football. Both the Senate and the House members greeted Patti with a standing ovation for this awesome accomplishment. Three magistrate judges were singled out for recognition by Chief Justice Burdick: Judge Chris Bieter for his work as chair of the Guardianship and Conservatorship Committee; and Judges Russell Comstock and David Day for their vision for specialized rules of procedure for family courts.

Following the SOJ, the District Judges meet with invited Legislators for lunch on the Fourth Floor Rotunda of the Capitol for informal discussions on numerous matters of interest to the judiciary.

On the “radar screen” are Judge Wildman’s water adjudication presentation before JFAC on January 29 and Patti Tobias’s budget presentation before JFAC on February 4.

Week ending January 18 [Week #2]

Extremely frigid weather greeted Legislators who returned to work in Boise this week. It is reported that many did not make the trip to their respective homes over the weekend due to the recent storm and road conditions.

A 31 Member Education Task Force has been formed and convened to try to improve public education. With the failure of Props 1, 2, and 3 in the last general election, there is a lot of interest not only in the work of this group, but also on the approximate \$32 million which had been set aside to implement those propositions had they passed.

The Director of the Idaho CAT Fund (Catastrophic Fund) reported to budget writers that the fund has seen a significant jump in 2012 indigent patients seeking medical care through the fund, which the director attributed primarily to increases in mental health cases. The CAT program receives funding from general fund revenue and county property taxes.

The various Legislative Committees continue their organizational processes, educational meetings, and IDAPA Rules review with the relevant agencies and divisions of those agencies presenting information.

Senate Majority Leadership and Senator Lodge as Chair of the Senate Judiciary and Rules Committee met informally with the Idaho Supreme Court on Tuesday to discuss the [Court's Legislative and Budget Priorities](#) which have been widely distributed to the Governor, all Legislators, and have been sent to all judges via the Court E-news. Similar meetings are being arranged for both House Majority and Minority Leadership.

With the State's reimbursement payments to foster parents being among the lowest in the nation, a proposal is being discussed to raise those fees by about one dollar per day.

On Wednesday, the Senate State Affairs Committee took up a comprehensive 39 page IDAPA rule developed by the Department of Administration dealing with Capitol Mall restrictions. After consideration, the Committee rejected 3 sections. The rule was developed in response to the 2012 Occupy Boise protest which was in the form of a tent city on the grounds of the old Ada County Courthouse during last year's legislative session.

The Court's three "Defects in the Law" bills were presented to the Senate Judiciary and Rules Committee on Wednesday for a print hearing. These have now been identified as [SB1016](#) on bail, [SB1017](#) on criminal procedure related to appeals from the Magistrate Division, and [SB1018](#) dealing with juries. For other Bills of Interest to the Judiciary, please [click here](#).

[SJR101](#) has been introduced which seeks to amend Article III, Section 8 of the Idaho Constitution. The amendment would provide that the legislature would meet for not more than 150 days each odd numbered year and not more than 60 days each even numbered year, unless extended by statute. One commentator reported that the intent was to have only fiscal and budget matters decided in one session and all other legislation decided in the other.

Patti Tobias and Senior Judge Barry Wood presented an informational session on "Recruitment of Judges" to the House Judiciary, Rules, & Administrative Committee on Thursday, January 17.

The Senate Minority Leadership team also met on an informal basis with the Idaho Supreme Court on Thursday to discuss the Court's Legislative and Budget Priorities as discussed above.

On the legislative "radar screen" are Chief Justice Burdick's State of the Judiciary Speech tentatively set for January 24, 2013; District Judges will be in Boise for their annual Seminar and will visit the Capitol on January 24; Judge Eric Wildman's SRBA presentation before JFAC on January 29; and Patti Tobias's Budget presentation before JFAC on February 4.

Week ending January 11 [Week #1]

The 1st Regular Session of the 62nd Idaho Legislature opened on Monday, January 7, 2013 in the midst of a day-long snow storm in Boise. A Joint Session of the House and Senate, with both the Idaho Supreme Court and the Court of Appeals in attendance, heard Governor Otter's 7th State of the State and Budget Message ([Text](#) / [Video](#)). The Governor made NO change in Employee Compensation (CEC) recommendation for state employees, which translates to proposing no base pay increases for state employees. The Governor did emphasize the following priorities for this year's session:

- Repeal Idaho's Business equipment tax (also popularly referred to as the personal property tax), the details of which the Governor would leave up to the Legislature;
- Consider granting a local option taxing authority to replace the business equipment/personal property tax;
- Address public education reform including boosting funding;
- Create a State-run medical insurance exchange;
- Build a 579-bed mental health facility at the Prison in south Boise; and

- Replenish \$35 million to reserve accounts and stabilization funds, or what is commonly referred to as rainy day accounts.

As it relates to the Courts, the ultimate outcome of the effort to repeal the business equipment tax is of importance because there is estimated to be \$141 million generated from the tax which goes to help finance many local county government functions, which includes many different trial court operations. It is reported that in some counties, this source of money amounts to as much as 40% of the respective county's revenue. The Governor has stated that his budget would provide \$20 million to local governments to help offset the loss of this revenue, or about a 14% offset. Two other money matters are big news this week. One is the Legislature must decide what to do with the approximate \$31 million that was dedicated for education reforms which were voted down in Props 1, 2, and 3. The other is the Legislature's Economic Outlook and Revenue Assessment Committee has voted to support Governor Otter's tax revenue forecast for FY14, which essentially means that because both the Legislature and the Governor agree on what next year's projected revenue stream will likely be, there may be more agreement on some budgeting or expenditure issues.

Idaho has announced a new public information website from which one can examine many details about the State's financial transactions. The new site is Transparent.Idaho.gov. The various Legislative Committees have been meeting this week with organizational issues being resolved and proposed IDAPA Rules coming before some of the germane committees.

This being the first week of the Legislative session, there is little activity in the Capitol Building on Friday, the 5th Legislative day. According to the Legislative website, only JFAC is meeting today.

The composition of our 2013 Legislative Review Teams is nearly complete, and should be finalized within the next week. These teams are of significant importance to the Judges, the Supreme Court and our relationship with members of the Legislature. As such, your participation is needed and appreciated.

On the "radar screen" are Chief Justice Burdick's State of the Judiciary Speech sometime in the next two weeks; an educational presentation by Patti Tobias and Senior Judge Barry Wood before the House Judiciary and Rules Committee on January 17; Judge Eric Wildman's water adjudication presentation before JFAC on January 29; and Patti Tobias' presentation of the Court's FY14 budget before JFAC on February 4.

As always, if you have any thoughts, suggestions, or questions, please [send them back this way](#).